UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,723	07/20/2005	Michael Menth	2003P00697WOUS	8414

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SIEMENS CORPORATION
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EXAMINER
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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *5/6/2010*.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *11-30* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) *11-30* is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____.
      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating

obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

Claims 20, and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Holender et al. (U.S. Patent # 5727051),** in view of **Beshai et al. (U.S. PG-Publication #20040114539).**

Consider **claim 11**, Holender et al. clearly show a method for setting limit values of an access control for limiting traffic transmission in a communication network, wherein the communication network comprises a plurality of pairs of marginal nodes between which the transmission occurs (fig. 17, col. 4, lines 41-42), and the limit values of the access control are limit values regarding the pairs (abstract (equalizing blocking probabilities and optimal allocation of resources is determined)), the method comprising the following steps:

setting the limit values such that probabilities for each of the pairs related to not approving the transmission between the marginal nodes of the pair, are substantially the same (fig. 9 (904-908), fig. 12A (1205-1212)), and such that an overload situation in the communication network does not occur (fig. 9(907 (respecting the capacity constrain of the physical link)));

However, Holender does not specifically disclose connection without explicit path reservation, increasing the limit values to a limit value and updating the limit value by setting the limit value to the minimum value.

In the same field of endeavor, Beshai et al. clearly show:

connection without explicit path reservation (par. 0096 (connectionless

communications);

increasing the limit values to a minimum value at which an overload situation

starts to occur, such that the probabilities are substantially the same (par. 0172, lines

(extreme-value estimate is a value that could be exceeded with negligible probability)).

updating the limit value regarding at least one of the pairs of marginal nodes (par.

0167, lines 1-4 (use routing function to allocate shortest path), between which a

transmission occurs causing the overload situation (par. 0167, lines 1-4 (shortest path

for some edge-node pairs can be overloaded)), by setting the limit value to the minimum

value (par. 0167, lines 1-4 (use routing function to allocate shortest path)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the

time of invention to demonstrate a method for setting limit value, as taught by Holender,

and show connection without explicit path reservation, and updating the limit value by

setting the limit value to the minimum value, as taught by Beshai, so that shortest path

can be achieved.

Consider **claim 26**, it is being rejected for the same reason as set forth in claim 1,

except margin nodes and internal nodes (Holender: fig. 6, col. 8, lines 44-53 (601-605

edge), (611-614 cross-connects)).

Consider **claim 28**, it is being rejected for the same reasons as set forth in claim 11 and 26.

Consider **claim 12**, and **as applied to claim 11 above**, Holender et al. clearly disclose the method wherein the probabilities related to not approving the transmission between the marginal nodes of the pairs are blocking probabilities related to blocking the transmission between the marginal nodes of the pairs (fig. 6 (601-605), fig. 9 (907 (make blocking uniform))).

Consider **claim 13**, and **as applied to claim 11 above**, Holender et al. clearly disclose the marginal nodes include nodes of the network representing sources or sinks of traffic of the network (fig. 6 (601-605)).

Consider **claim 14**, and **as applied to claim 11 above**, Holender et al. clearly disclose a method, wherein the marginal nodes are specified by ingress nodes and egress nodes of the network (fig. 6 (601-605)).

Consider **claim 15**, and **as applied to claim 14 above**, Holender et al. clearly disclose a method wherein the plurality of the pairs comprises all pairs of the network consisting of an ingress node and an egress node in each case (fig. 6 (601-605)).

Consider **claim 16,** and **as applied to claim 11 above**, is rejected for the same

reason as set forth in claim 11.

Consider **claim 17**, and **as applied to claim 16 above,**

claim 21, and **as applied to claim 20 above**,

Hollender et al. clearly disclose a method, wherein the threshold value for the traffic

transmitted over the link is assigned to the link such that in case of failure of the link, the

traffic allowed within the framework of the access controls does not represent any

overload (col. 12, line 65-col. 13, line 3 (critical link))).

Consider **claim 18**, and **as applied to claim 11 above**, it is being rejected for the

same reason as set forth in claim 11.

Consider **claim 19**, and **as applied to claim 18 above**, Holender et al. clearly

disclose the method ad described.

However, Holender does not specifically disclose the steps of finding the limit

values for all the pairs.

In the same field of endeavor, Beshai et al. clearly show repeating the further

steps until the limit values for all of the pairs are determined (par. 0029 (steps of

determining an estimate of an extreme value)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method for setting limit value, as taught by Holender, and show connection without explicit path reservation and updating the limit value by setting the limit value to the minimum value, as taught by Beshai, so that an extreme value can be determined.

Consider **claim 24**, and **as applied to claim 11 above**, Holender et al. clearly disclose and show a network node with means for executing the method (fig. 9).

Consider **claim 25**, and **as applied to claim 24 above**, Holender et al. clearly discloses and shows a network node wherein the network node is a marginal node of the network (fig. 6 (601-605)).

Consider **claim 27**, and **as applied to claim 26 above**, it is being rejected for the same reason as set forth in claims 14 and 15

Consider **claim 29**, and **as applied to claim 28 above**, it is being rejected for the same reason as set forth in claim 11.

Consider **claim 30**, and **as applied to claim 29 above**, it is being rejected for the same reason as set forth in claim 11.

Claims 20, and 22-23 are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Holender et al. (U.S. Patent # 5727051)**, in view of **Casaccia et**

al. (U.S. PG-Publication #20020177432), and further in view of **Fodor et al. (U.S.**

Patent #6788646).

Consider **claim 20**, and **as applied to claim 18 above**, Holender et al. clearly

disclose and show the method as described.

However, Holender does not specifically disclose the further overload situation is

produced when in a further scenario of high traffic load, in which the limit values for the

access controls are still adhered to, a further threshold value is exceeded on a further

link for the further traffic transmitted over the further link.

In the same field of endeavor, Fodor et al. clearly show the further overload

situation is produced when in a further scenario of high traffic load, in which the limit

values for the access controls are still adhered to, a further threshold value is exceeded

on a further link for the further traffic transmitted over the further link (fig. 2; column 11,

lines 19-59 (iterative steps to tune the cut-off parameters to its maximum in order to

minimize the blocking probabilities)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the

time of invention to demonstrate a method for setting limit value, as taught by Holender,

and show overload situation is produced when in a further scenario of high traffic load,

in which the limit values for the access controls are still adhered to, a further threshold

value is exceeded on a further link for the further traffic transmitted over the further link, as taught by Fodor, so that capacity can be optimized.

Consider **claim 22**, and **as applied to claim 11 above**, Holender et al. clearly disclose and show the method as described.

However, Holender does not specifically disclose making access checks for all the traffic of a class of service.

In the same field of endeavor, Fodor et al. clearly show making access checks for all the traffic of a class of service (column 5, lines 27-47 (provide the contracted QoS)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method for setting limit value, as taught by Holender, and show making access checks for all the traffic of a class of service, as taught by Fodor, so that capacity can be optimized.

Consider **claim 23**, and **as applied to claim 22 above**, Holender et al. clearly disclose and show the method as described.

However, Holender et al. do not specifically disclose the access checks relate to an approval or rejection of individual flows.

In the same field of endeavor, Fodor et al. clearly show the access checks relate to an approval or rejection of individual flows (column 1, lines 58-65 (reject new calls to protect in-progress calls in order to provide QoS)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention to demonstrate a method for setting limit value, as taught by Holender, and show the access checks relate to an approval or rejection of individual flows, as taught by Fodor, so that capacity can be optimized.

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Applicant's arguments filed on 5/6/2010, with respect to claims 11, 18 and 26, on pages 2-5 of the remarks, have been carefully considered.

In the present application, Applicants basically argue, that Holender et al. do not show "without explicit path reservation" and "limit value". The Examiner has introduced a new reference which teaches "without explicit path reservation" and "limit value". See the above rejections of claims 11, 18 and 26 for the relevant interpretation and citations found in Beshai, disclosing the missing limitations.

Conclusion

Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed
to**:

        Commissioner for Patents
        P.O. Box 1450
        Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

        Customer Service Window
        Randolph Building
        401 Dulany Street
        Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Sai-Ming Chan whose telephone number is (571) 270-

1769. The Examiner can normally be reached on Monday-Thursday from 8:30am to

5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

supervisor, Seema Rao can be reached on (571) 272-3174. The fax phone number for

the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist/customer service whose telephone

number is (571) 272-2600.

/Sai-Ming Chan/

Examiner, Art Unit 2462

July 2, 2010

/Kevin C. Harper/
Primary Examiner, Art Unit 2462